

# EXHIBIT 12

**ORGANISATION MONDIALE  
DE LA PROPRIÉTÉ INTELLECTUELLE**

**Centre d'arbitrage et de médiation de l'OMPI**



**WORLD INTELLECTUAL  
PROPERTY ORGANIZATION**

**WIPO Arbitration and Mediation Center**

## **WIPO LIST OF NEUTRALS**

### **BIOGRAPHICAL DATA**

James Wilson DABNEY  
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United States of America



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Date of Birth: October 2, 1954

Nationality: American

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### **EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS**

J.D., *magna cum laude*, Cornell Law Review, Order of the Coif, Cornell Law School, 1979;  
B.A., *magna cum laude*, (Economics), Harvard College, 1976;  
Diploma, The Music Prize, Cum Laude Society, The Hotchkiss School, 1972.

October 19, 2006

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**Admissions:**

New York;  
New Jersey;  
U.S. District Courts (S.D.N.Y., E.D.N.Y., N.D.N.Y., W.D.N.Y., D.N.J., C.D. Ill., N.D. Ill., E.D. Wis., N.D. Ind.,  
W.D. Mich, D. Conn., D.D.C.);  
U.S. Courts of Appeals (2<sup>d</sup> Cir., -11<sup>th</sup> Cir., Fed. Cir.);  
Supreme Court of the United States.

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**LANGUAGES**

English.

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**PRESENT POSITION**

Partner, Fried Frank Harris Shriver & Jacobson LLP, since 2004.

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**PROFESSIONAL EXPERIENCE BEFORE PRESENT POSITION**

Partner, Pennie & Edmonds LLP, New York, New York, 1989-03;  
Associate, Sullivan & Cromwell, New York, New York, May-August 1979, December 1980-July 1989;  
Law Clerk, U.S. Court of Appeals for the Fifth Circuit, The Honorable James C. Hill, September 1979-September 1980.

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**MEMBERSHIP IN PROFESSIONAL BODIES**

American Law Institute;  
American Bar Association (ABA);  
New York State Bar Association (NYSBA);  
American Intellectual Property Law Association (AIPLA);  
Association of the Bar of the City of New York (ABCNY);  
Copyright Society of the U.S.A.

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**MAJOR PUBLICATIONS**

"On the Use of Patents and Copyrights to Exclude Rivals From Aftermarkets," Managing Intellectual Property, 1996;  
"Fundamentals of Patent Litigation," ALI-ABA, 1995;  
"On the Territorial Reach of the Lanham Act," TMR, 1993;  
"Outer Boundaries of Trademarks," ALI-ABA, 1992;  
"Licenses and New Technology," ALI-ABA, 1991;

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"Unfair Competition After Bonito Boats," ALI-ABA, 1989;  
"State Law Protection of Intellectual Creations: Privacy and Preemption," 38 Syracuse L. Rev. 653, 1987;  
"Antitrust Aspects of Anticompetitive Zoning," 25 Antitrust Bull. 435, 1979;  
"Contribution in Private Antitrust Suits," 63 Cornell L. Rev. 682, 1978.

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### **AREAS OF SPECIALIZATION**

Litigation and counseling in the fields of patents, trademarks, copyrights, and neighboring rights, including rights in the public domain and rights to compete without interference from unfair, deceptive, or anticompetitive practices.

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### **EXPERIENCE IN INTELLECTUAL PROPERTY**

Lead trial counsel of record in numerous actions and proceedings involving intellectual property; Advisor to clients with respect to selecting and registering trademarks and service marks worldwide;  
Advisor to clients with respect to transactions involving intellectual property, including acquisitions, licenses, and divestitures;  
Advisor to clients with respect to questions of validity, enforceability, registrability, infringement, or non-infringement of U.S. patents, copyrights, trade secrets, trademarks, and neighboring rights, including related issues of pretrial and post-trial injunctive remedies, monetary relief, choice-of-law, insurance coverage, jurisdiction and venue, evidentiary rules and privileges, federal preemption, antitrust, unfair trade practices, and misuse and kindred defenses.

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### **EXPERIENCE WITH RESPECT TO DOMAIN NAMES**

Lead counsel for a number of international companies who have (a) applied to register second level domain names on the Principal Register maintained by the U.S. Patent and Trademark Office; (b) filed suit in the U.S. and recovered control over second level domain names corresponding to their well-known corporate names or trademarks; (c) invoked the Dispute Resolution Policy of Network Solutions, Inc. ("NSI") and caused second level domain names to be placed "on hold"; (d) enforced judgments ordering the transfer or cancellation of domain name registration.

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### **EXPERIENCE IN COURT LITIGATION**

Recent court litigation experiences include:

*Holmes v. Vornado* (Sup. Ct.), involving alleged false advertising, deceptive practices, and related claims including a counterclaim for alleged infringement of patent titled "Ducted Fan";  
*eSpeed v. BrokerTec USA* (D. Del.), involving alleged infringement of a patent titled

“Automated Auction Protocol Processor”;  
*Teleflex v. KSR Int’l* (E.D. Mich.), involving alleged infringement of patents drawn to position adjustable pedal assemblies;  
*Metrokane v. Costco Wholesale* (S.D.N.Y.), involving alleged infringement of design patents and “trade dress” claimed in configuration of lever-action corkscrews;  
*Unither v. Herbalife* (N.D. Cal.), involving alleged infringement of patents drawn to dietary supplements comprising L-arginine and methods of their use;  
*CFS Bakel v. Stork Gamco* (D. Del.), involving alleged infringement of patent entitled “Oven”;  
*Hofheinz v. AMC Productions* (E.D.N.Y.), involving alleged infringement of copyrights in motion pictures;  
*Virgin v. Nawab* (2d Cir.), involving alleged infringement of VIRGIN trademark and service mark in field of retail sales of wireless services and handsets;  
*Labcorp v. Chiron* (D. Del.), involving alleged infringement of patents drawn to methods for detecting the presence or absence of Hepatitis C virus;  
*Dreyfus v. Bank of Montreal* (S.D.N.Y.), involving alleged infringement of service marks claimed in images of lions;  
*American Multi-Cinema v. American Movie Classics* (W.D. Mo.), involving alleged infringement of service mark “AMC”;  
*Celgene v. Rogan* (D.D.C.), involving APA action to enjoin issuance of an interfering patent on subject matter previously patented to the plaintiff;  
*Cumulus Media v. Clear Channel* (11<sup>th</sup> Cir.), involving action for alleged infringement of service mark “THE BREEZE”;  
*WeMedia v. General Elec. Co.* (S.D.N.Y.), involving alleged infringement of trademark “WEMEDIA”;  
*Gleason v. Norwest Mortgage* (D.N.J.), involving claims for alleged breach of contract to repurchase information services business;  
*Virgin v. American Longevity* (S.D.N.Y.), involving claims for false advertising, deceptive practices, and service mark infringement arising from defendants’ marketing of “colloidal mineral” products under designation “VIRGIN EARTH”;  
*Commercial Risk v. General Re* (D. Conn.), involving claims for alleged infringement of slogan “BEHIND THE PROMISE”;  
*Harmonic Design v. Hunter Douglas* (C.D. Cal.), involving claims for alleged infringement of patents drawn to battery-powered remote controlled window coverings;  
*Virgin v. Virgin Petroleum* (C.D. Cal.), involving claims for alleged infringement of VIRGIN mark in field of service stations;  
*Bravo v. Chum* (E.D.N.Y.), involving claims for breach of contract and infringement of service mark “BRAVO” in Canada;  
*Hunter Douglas v. Comfortex* (N.D.N.Y.), involving claims for alleged infringement of patents drawn to cellular window coverings;  
*Morgan Stanley v. Smart Ideas* (S.D.N.Y.), involving claims for alleged infringement of rights in service mark “MSDW”;  
*Zeneca and Astra v. The Stat* (S.D.N.Y.), involving claims for alleged infringement of rights in trademark ASTRAZENECA;  
*Pharmacia v. Generation Health* (W.D. Mich.), involving claims for alleged infringement of rights in trademark COLESTID;

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*Caterpillar v. Jerryco* (C.D. Ill.), involving RICO and fraudulent conveyance claims arising from alleged breach of license to distribute CATERPILLAR footwear;  
*Liebowitz v. Elsevier* (S.D.N.Y.), involving rival claims to ownership of titles to peer reviewed scientific journals;  
*Gel Sciences v. Acushnet* (D. Mass.), involving claims for alleged breach of contract, alleged misappropriation of trade secrets, and rival claims to ownership of rights in temperature sensitive “gel” compositions;  
*Vornado v. Duracraft* (10<sup>th</sup> Cir.), involving claim of alleged infringement of “trade dress” in “spiral grill” design embodied in fan and heater products;  
*SCOR v. Minet* (S.D.N.Y.), involving claim of alleged infringement of slogan “PARTNERS IN RISK MANAGEMENT”;  
*Skellerup v. City of Los Angeles* (C.D. Cal.), involving claim for alleged misaward of a public contract to purchase seismic base isolators;  
*Duracraft v. Patton Electric* (D. Mass.), involving claims for alleged false advertising and unfair competition in sale of high velocity fan products;  
*Mosinee v. James River* (E.D. Wis.), involving claim for alleged infringement of patent drawn to automatic transfer roll towel dispensers;  
*Skellerup v. Crystal Polymer* (W.D.N.Y.), involving claim for alleged inducement of breach of fiduciary duty, misappropriation of trade secrets, and related torts arising from distributor’s establishment of rival manufacturing facility.

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### EXPERIENCE IN MEDIATION

Recent mediation experiences include court-ordered mediations in:

*Virgin v. Nawab* (S.D.N.Y.), counsel for plaintiff in action for alleged service mark infringement and related torts;  
*American Multi-Cinema v. American Movie Classics* (S.D.N.Y.), counsel for defendant in action for alleged service mark infringement and related torts;  
*Dreyfus v. Bank of Montreal* (S.D.N.Y.), counsel for defendant in action for alleged service mark infringement and related torts;  
*Cumulus Media v. Clear Channel* (11<sup>th</sup> Cir.), counsel for plaintiff in action for service mark infringement and related torts;  
*Virgin v. Morse* (S.D.N.Y.), counsel for plaintiff in action for alleged service mark infringement and related torts;  
*Transcraft v. Doonan Trailer* (N.D. Ill.), counsel for defendant in product configuration “trade dress” action;  
*Liebowitz v. Elsevier* (E.D.N.Y.), counsel for co-defendants in contract and trademark action concerning rival claims of ownership to titles and cover designs of scientific journals;  
*Bravo Co. v. Chum* (E.D.N.Y.), counsel for plaintiff in contract and trademark action involving cable television service in Canada;  
*Execution Services v. Effective Solutions* (S.D.N.Y.), counsel for plaintiff in trademark action;  
*Skellerup v. City of Los Angeles* (C.D. Cal.), counsel for plaintiff in action for misaward of

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public contract; and others.

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### **EXPERIENCE IN ARBITRATION**

Recent arbitration experiences include:

*Blue Bell v. Western Glove* (AAA), counsel for claimant in trademark license dispute relating to Canada;

*Topps v. Regina (1988) Ltd.* (AAA), counsel for respondent in trademark license and supply agreement relating to New Zealand;

*DeGrace v. Breckenridge Development* (AAA), counsel for claimant in contract dispute relating to dissolution of business in New Jersey, USA; and others.

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